

Richard Pugh

Year called: 2008
Email: richard.pugh@compasschambers.com
Qualifications: Qualifications:
1996 - 2000: LLB (HONS) (Strathclyde)
2000 - 2001: Dip LP (GGSL)
Appointments:
2015 to date: Standing Junior Counsel to
Advocate General for Scotland
2015 to date: Conduct in Sport Panel
member/chair, Scottish Gymnastics



Practice

Since calling to the Bar, Richard has developed a busy and varied civil practice. Richard's main practice areas are:

- Medical Negligence
- Personal Injury
- Fatal Accident Inquiries
- Defamation and Media
- Commercial Litigation, particularly with an insurance focus
- Judicial Review

Richard is instructed by a wide variety of private firms and public authorities. His range of work extends to cases of high complexity, both on his own and alongside senior counsel. Richard is currently instructed by the MDDUS in the mesh and tape litigation. He has conducted litigation in the Supreme Court, Inner and Outer House of the Court of Session, Sheriff Court and in the First Tier and Upper Tribunal.

Both Chambers and Partners and the Legal 500 rank Richard under both personal injury and medical negligence. Richard is praised for his knowledge and experience, his innovative approach and how he deals with clients.

In September 2015 Richard was appointed as Standing Junior Counsel to the Advocate General for Scotland. In that role he has advised and represented various government departments and governmental bodies, gaining particular experience in tribunal and judicial review proceedings and in enforcement proceedings.

Richard is appointed by Scottish Gymnastics to chair Conduct in Sport Panels under the Sport Scotland umbrella.

In his spare time, Richard is a keen golfer and trumpet player.

Representative cases

Reparation

Campbell v Peter Gordon Joiners 2014 SLT 178 (Outer House), 2015 SC 453 (Inner House) and 2017 SC (UKSC) 13 (Supreme Court) – Debate and subsequent appeals to Inner House and Supreme Court concerning whether company directors are liable in situations where employers' liability insurance is not in place. In particular, the case addressed an apparent divergence between the law in Scotland and in England and Wales about whether the Employers' Liability (Compulsory Insurance) Act 1969 imposes civil liability. Acted for ultimately successful defender.

ICL Plastics v Johnston Oils [2012] CSOH 62 and 2013 SLT 2013 – Commercial Cause debate and subsequent proof concerning the supplier of gas to industrial premises. The case was a test case seeking apportionment of multiple awards of damages following an explosion at a plastics factory. Appeared as junior counsel for successful defenders.

Cumming v Tayside Health Board 2017 S.C.L.R. 176 – Resisting application for disclosure of documentation, including statements of witnesses, behind a Significant Adverse Event Review carried out by an NHS board. Discussion of principles of litigation privilege and the policy behind adverse event reviews.

JD v Lothian Health Board [2017] CSIH 27 – Appeal concerning relevancy of pursuer's pleadings in an action for clinical negligence. Discussion of the role of Ch 42A of the Rules of the Court of Session. Acted for successful defender.

Docherty v ICI 2015 SLT 858 and 2017 SLT 671 – Debate and subsequent hearing on amendment concerning damages for fatal asbestos exposure where the defender's liability arose due to exposure in England. Questions of international private law. Acted for successful defender.

McKay v Scottish Fire and Rescue and Dundee City Council 2015 SLT 342 – Debate regarding duties of care on local authorities. Appeared for successful defender

Peat v Assembly Theatre 2014 SLT 1017 – Debate regarding limitation. Appeared for defender.

Leonard v Loch Lomond and the Trossachs National Park Association [2014] CSOH 38 - Proof and subsequent reclaiming motion regarding Occupiers' Liability for an accident on the West Highland Way. Case concerned whether a section of the West Highland Way at Balmaha was

suitable; and whether there was a duty to fence obvious hazards. Acted for successful defenders.

McLaughlin v Morrison 2014 SLT 111 - Summary Decree motion concerning the defence of *ex turpi causa* in relation to an alleged gang incident in Glasgow. Pursuer left with profound injuries following deliberate running down. Acted for defenders.

Thomson v Dennis Thomson Builders and Hamilton v Ferguson Transport 2012 SC 486 - Conjoined motions for new trial in two fatal personal injuries actions. Hearing before a bench of five judges of the First Division. Case resulted in new trials in both cases, as well as a change in practice for the conduct of civil jury trials in Scotland. Acted for successful defenders in both cases.

Bellingham v Todd 2011 SLT 1124 – Proof in fatal claim arising out of motorcycle accident. Both liability and quantum in dispute. First judicial consideration of awards in fatal cases for several years. Acted for successful pursuer.

Munro v Sturrock t/a Scotmaps [2010] CSOH 116 and [2012] CSIH 35 - Proof, and subsequent appeal, concerning an accident during the Scottish Rally Championships. Acted for successful defender both in the Outer and Inner Houses.

CG & MW v Glasgow City Council 2011 SCLR 116 - Inner House Appeal concerning limitation in actions concerning historic sexual abuse.

FAIs

FAI into the death of Claire Fairbairn [2015] FAI 2 – fatal accident inquiry into the death of a young lady from diabetic ketoacidosis. Acted for Scottish Ambulance Service.

FAI into the death of Jamesina McKenzie 2012 FAI 57 – fatal accident inquiry into the death of an elderly lady in a nursing home as a result of infected pressure sores. Acted for Health Board.

FAI into the death of Norma Kirk 2011 FAI 15 - fatal accident inquiry concerning medical treatment. Acted for Health Board.

FAI into the Death of Frances Goodwin [2010] FAI 42 - fatal accident inquiry concerning an ambulance proceeding through a red light. Issues of training and use of audible warnings. Acted for Ambulance Service.

Contract and Commercial litigation

D Geddes Contractors v Neil Johnson Health and Safety [2017] PNLR 21 – Professional negligence action. Debate concerning the recovery of a fine and the principle of *ex turpi causa*. Acted for successful pursuer.

Amlin UK Ltd v Geo Rope [2017] Lloyd's Rep. I.R. 277 – Debate concerning payment by an insurer who had declined indemnity and subsequent attempt to recover from insured. Whether liability ever rested on insurer to make payment and, if not, whether action for recovery was relevant. Acted for defender. Case settled on appeal.

Durkin v DSG Retail and HFC Bank [2014] 1 WLR 1148 - Appeal to the UK Supreme Court concerning the right to rescind a credit agreement following upon the valid rescission of the corresponding supply agreement; and damages arising out of damage to the pursuer's reporting to credit reference agencies.

Smith v The Scottish Legal Aid Board [2011] CSOH 168 and [2012] CSIH 14 – Commercial cause debate, and subsequent appeal, concerning the right of counsel to payment of interest from the Scottish Legal Aid Board under the Late Payment of Commercial Debts (Interest) Act 1998, and corresponding European Directives. Appeared for pursuer.

Clipper Ventures v Boyde 2013 SCLR 313 - Sheriff Principal appeal concerning unfair contract terms in consumer contracts.

Judicial Review

SV (Sri Lanka) v Secretary of State for the Home Department [2016] CSOH 123 – Judicial Review of a decision of the Home Secretary. Acted for respondent.

Christina S for Judicial Review [2013] CSOH 85 - Judicial Review on behalf of the owners of a fishing boat. Concerned a decision by the Scottish Ministers to reduce fishing quotas.

MC for Judicial Review [2013] CSOH 65 - Acting for the Chief Constable of Strathclyde Police responding to petition for Judicial Review. Concerned decision to dismiss an officer.

Defamation and Media

Price v Forth Yacht Club, Sh Ct Edinburgh (2017) – Debate on meaning in defamation action.

Other

Edinburgh City Council v Marcel [2017] CSOH 15 and [2017] CSIH 50 – Debate and subsequent appeal concerning council's duty to bury bodies under certain circumstances.

Moore v The Scottish Daily Record and Sunday Mail 2009 SC 178; 2009 SLT 27 - A decision of five judges concerning the vires of Courts penalising parties for late settlement of appeals.

Laughlan and O'Neil v HMA 2010 SCCR 347; and 2010 SCCR 357 - Criminal Appeal concerning delay in the context of the ECHR

McKinnon v Chief Constable Strathclyde Police, Sheriff Principal at Paisley - appeal concerning the provision of firearms licences. Acted for successful pursuer.

Lectures and seminars

Richard has, since coming to the bar, given seminars concerning various issues of reparation law and damages. His topics have included damages in personal injuries, remoteness of loss, six-pack regulations and sports law.

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Richard has been a tutor in both Civil Court Practice at the Edinburgh University Diploma, and on the WS Society's Professional Competence Course.